STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
-vs-	:	
Central Illinois Light Company,	:	**99-0013**
Central Illinois Public Service	:	
Company, Commonwealth Edison	:	
Company, Illinois Power Company,	:	
Interstate Power Company,	:	
MidAmerican Energy Company, Mt.	:	
Carmel Public Utility Company,	:	
South Beloit Water, Gas, and	:	
Electric Company, and Union	:	
Electric Company	:	
	:	
Investigation Concerning the	:	
Unbundling of Delivery Services	:	
Under Section 16-108 of the Public	:	
Utilities Act.		

INTERIM ORDER

DATED: April 12, 1999

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INTERIM ORDER

By the Commission:

I. BACKGROUND

On January 13, 1999, the Commission entered an order initiating this proceeding to investigate issues concerning the unbundling of delivery services under Section 16-108 of the Public Utilities Act (the "Act") [220 ILCS 5/16-108]. In its initiating order, the Commission indicated that it should not prejudge the substantive issues that will be involved with the individual electric utility delivery service tariff filings that are due no later than March 5, 1999, pursuant to Section 16-108(a) of the Act. Section 16-108(b) of the Act requires the Commission to enter an order approving, or approving as modified, the delivery service tariffs no later than 30 days prior to October 1, 1999, the date on which the electric utilities must commence offering delivery services. The Commission expressed its concern that if it waits until the end of August 1999 to rule on issues relating to the unbundling of delivery services and some unbundling of delivery services is warranted, there may not be sufficient time for electric utilities to make the necessary preparations to appropriately serve customers seeking delivery services on an unbundled basis. Therefore, the Commission initiated this proceeding to investigate and make determinations with respect to the following three issues:

(1) Can and should delivery services be unbundled on a statewide basis?

(2) If the Commission decides that unbundling is appropriate, should there be any exceptions for very small utilities?
(3) How will the transition charge be applied to customers taking unbundled delivery services?

II. PROCEDURAL HISTORY

Petitions to intervene in this proceeding were filed by Alliant Energy Resources, Inc. ("Alliant"); Blackhawk Energy Services ("Blackhawk"); the Building Owners and Managers Association of Chicago ("BOMA"); CellNet Data Services, Inc. ("CellNet"); the Citizens Utility Board; Enron Energy Services, Inc. ("Enron"); the Illinois Industrial Energy Consumers ("IIEC"); the International Brotherhood of Electrical Workers, AFL-CIO, Local Union Nos. 15, 51, 702 and 1306 ("IBEW"); NEV Midwest, L.L.C. ("NEV"); the People of Cook County; and Peoples Energy Services Corporation. These petitions to intervene were granted by the Hearing Examiners, except for CellNet's. CellNet's petition to intervene is hereby granted. In addition, the City of Chicago (the "City") filed an appearance in this docket.

Pursuant to notice given in accordance with law and the rules and regulations of the Commission, prehearing conferences were held in this docket on January 21 and 25, 1999. Thereafter, evidentiary hearings were held on February 23, 24 and 25, 1999. Central Illinois Public Service Company ("CIPS") and Union Electric Company (collectively "Ameren"), Commonwealth Edison Company ("ComEd"), Illinois Power Company ("IP"), MidAmerican Energy Company ("MidAmerican"), Mt. Carmel Public Utility Company ("Mt. Carmel"), the Staff of the Commission ("Staff"), Alliant, the City, Enron, NEV and IIEC each appeared, were represented by counsel, and presented evidence. CILCO and IBEW appeared by counsel at the hearings, but did not present evidence. At the conclusion of the hearing on February 25, 1999, the record was marked "Heard and Taken."

Ameren presented the testimony of Craig D. Nelson, Vice President, Regulatory Planning of CIPS, and Hugo K. van Nispen, a Principal with CSC Planmetrics. ComEd presented the testimony of John M. Chevrette, a Senior Vice President with Computer Science Corporation's Chemical and Energy Strategic Consulting Group; Mark D. Herrmann, ComEd's Customer Services Vice President; Arlene A. Juracek, ComEd's Access Implementation Vice President; Jeffrey D. Makholm, a Senior Vice President at National Economic Research Associates, Inc. (NERA); and Michael Meehan, a Director in ComEd's Information Services Department. IP presented the testimony of John P. Barud, Manager-Electric Delivery of IP's Energy Delivery Department; Alex Henney, a Principal with EEE Limited; Hethie S. Parmesano, a Vice President at NERA; Robert D. Reynolds, IP's Vice President, Customer Solutions; Gary R. Shannahan, IP's Manager-Regulatory Services; and Edward D. Stoneburg, IP's Program Manager-Business Process and Systems Integration for Deregulation. MidAmerican presented the testimony of Naomi G. Czachura, its Manager-Regulatory Analysis. Mt. Carmel presented the testimony of Dan E. Long, a partner with SPI Energy Group. Staff presented the testimony of Thomas E. Kennedy, the Director of the Policy Program in

the Commission's Energy Division. Alliant presented the testimony of Terry Nicolai, Director of Regulatory Relations for Alliant Energy Corporate Services, Inc. The City presented the testimony of Steven Walter, an employee of the Energy Office of the City's Department of Environment. Enron and NEV jointly presented the testimony of Philip R. O'Connor, President of NEV.

Briefs were filed by Alliant, Ameren, the City, ComEd, Enron/NEV, IIEC, IP, MidAmerican, Mt.Carmel and Staff.

The Hearing Examiners' Proposed Interim Order was served on the parties. Briefs on exceptions were filed by Ameren, CILCO, ComEd, Enron/NEV, IBEW, IIEC, IP, MidAmerican and Mt. Carmel. Replies to exceptions were filed by the City, ComEd, Enron/NEV, IBEW, IIEC, IP, Mt. Carmel and Staff. These filings have been considered by the Commission in reaching its decision in this proceeding, except insofar as they rely on factual assertions and documents that are not part of the evidentiary record in this proceeding.

III. STATUTORY PROVISIONS THAT DIRECTLY ADDRESS UNBUNDLING OF DELIVERY SERVICES

Section 16-108(a) of the Act provides:

> An electric utility shall file a delivery services tariff with the Commission at least 210 days prior to the date that it is required to begin offering such services pursuant to this Act. An electric utility shall provide the components of delivery services that are subject to the jurisdiction of the Federal Energy Regulatory Commission at the same prices, terms and conditions set forth in its applicable tariff as approved or allowed into effect by that Commission. The Commission shall otherwise have the authority pursuant to Article IX to review, approve, and modify the prices, terms and conditions of those components of delivery services not subject to the jurisdiction of the Federal Energy Regulatory Commission, including the authority to determine the extent to which such delivery services should be offered on an unbundled basis. In making any such determination, the Commission shall consider, at a minimum, the effect of additional unbundling on (i) the objective of just and reasonable rates, (ii) electric utility employees, and (iii) the development of competitive markets for electric energy services in Illinois.

Section 16-109 of the Act provides:

> The General Assembly finds that the offering of delivery services will, and is intended to, facilitate the development of competition for generation services, and that competition may develop for other services currently offered on a tariffed basis by the electric utility. The Commission shall open a proceeding to investigate the need for and desirability of

different or additional unbundling of delivery services for some or all electric utilities 3 years from the date that a tariff for delivery services is first approved or allowed to go into effect pursuant to this Section. The Commission shall open an additional proceeding to again investigate the need for and desirability of different or additional unbundling of delivery services for some or all electric utilities, 3 years after the entry of its final order in the first investigation proceeding. The Commission shall issue its final order in each investigation proceeding no later than 6 months after the proceeding is initiated. In each such proceeding the Commission shall consider, at a minimum, the effect of additional unbundling on (i) the objective of just and reasonable rates, (ii) electric utility employees, (iii) the development of competitive markets for electric services in Illinois. Specific changes to the delivery services tariffs of individual electric utilities to implement findings and directives stated in an order in an investigation proceeding initiated under this Section shall be addressed through individual electric utility tariff filings. The Commission may also, in accordance with Section 16-108, upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the need and desirability of requiring additional or other unbundling of delivery services offered by electric utilities.

IV. IDENTIFICATION OF DELIVERY SERVICES THAT SHOULD BE UNBUNDLED

This Section addresses whether the Commission should make a policy decision in this interim order that certain delivery services should be offered on an unbundled basis.

A. Enron/NEV's Position

Enron/NEV assert that the Commission should conclude that metering, billing and customer handling should be unbundled. They contend that unbundling of these services is warranted upon examination of the three factors specified in Section 16-108(a) of the Act. First, they state that unbundling of these services is consistent with the objective of just and reasonable rates. They assert that competition for these services will result in more accurate and efficient pricing. They contend that the unbundling will have no adverse impact on the rates charged by utilities for bundled service since there cannot be any cross-subsidies between bundled service customers and delivery service customers. They state that the rate case moratorium specified in Section 16-111(a) of the Act is a bulwark against such cross-subsidies. They assert that even a total loss of all billing, metering and customer handling business to new entrants would not trigger a rate case by a utility since the amount of revenue associated with such services is *de minimis*. They note that utilities and Staff have asserted that meters, meter reading, and customer handling represent, at most, 4% of electricity costs. They contend that the objective of just and reasonable rates will be met so long as the Commission sets just and reasonable rates for delivery services that allow the utilities to

recover their costs of providing such services. (Enron/NEV Brief at 7-8; ARES Ex. 2.0 at 15-16)

Second, they contend that the evidence in the record demonstrates that unbundling of metering, billing and customer handling will have a positive effect on electric utility employees. They assert that the utilities' preparation for open access on October 1, 1999 has resulted in an increase in the number of utility employees and that a similar increase in employment can be expected as utilities prepare for competition in other unbundled services. They contend that any displacement of utility employees would be small and likely below normal employee turnover and attrition rates. They assert that if the California experience is any guide, the switchover to unbundled billing, metering and customer handling will result in a slight increase in utility employment to perform the necessary workarounds. They further assert that the innovation resulting from competition likely will require new employees to develop and maintain new products and services. (Enron/NEV Brief at 8-9; ARES Ex. 2.0 at 16)

Third, they contend that the unbundling of metering, billing and customer handling will aid in the promotion and development of competitive markets for electric energy services in Illinois. They indicate that customers desire unbundling. They emphasize that the movement to competition results in customer empowerment. Enron/NEV witness O'Connor testified that customers will send and receive price signals, customers' preferences largely will govern product and service offerings, and planning and investment decisions by service providers will be penalized or rewarded in the free market. He indicated that the unbundling of various services will multiply the opportunities for customers to exercise their power. He stated that if customers can make a "yes" or "no" decision only on generation supplies, their influence will be severely limited. He indicated that if the Commission orders unbundling, customers will be able to mix and match services, choose different gradations of quality, and choose any level of bundling or unbundling they desire. He emphasized that new entrants and customer choice result in innovation and greater efficiency, citing the results of deregulation of the communications and financial institution industries. He noted that electricity deregulation in California has resulted in the installation of thousands of new meters capable of real-time pricing and telemetry and Internet billing and access to usage information. (Enron/NEV Brief at 11-13; ARES Ex. 1.0 at 5-6 and 15-17)

ENRON/NEV note that the utilities have asserted that a cost/benefits analysis should be presented before a conclusion can be reached on unbundling. Enron/NEV state that no Section of the Act requires an empirical demonstration of economic benefits. They assert that such demonstration is a relic of old-style utility regulation and has no place in this proceeding. (Enron/NEV Brief at 8)

B. IIEC's Position

IIEC recommends that the Commission make a policy decision that metering, billing and customer handling should be unbundled. IIEC asserts that the evidence demonstrates that consumers will benefit if such services are unbundled. IIEC witness

Johnstone testified that customers should be able to choose among alternative providers of unbundled services and seek suppliers that are more responsive to their needs and that provide better quality and lower prices. IIEC contends that unbundling is consistent with the Electric Service Customer Choice and Rate Relief Law of 1997. IIEC notes that Section 16-101A(b) of the Act provides that "[l]ong-standing regulatory relationships need to be altered to accommodate the competition that could fundamentally alter the structure of the electric services market" and that Section 16-101A(d) provides that "[t]he Illinois Commerce Commission should act to promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all consumers." (IIEC Brief at 2 and 4)

IIEC addressed the three factors that must be considered under Section 16-108(a) of the Act. IIEC agrees with Enron/NEV witness O'Connor's position that the objective of just and reasonable rates is met by unbundling as long as the Commission sets just and reasonable rates for delivery services that enable utilities to recover the costs of providing delivery services. IIEC emphasizes that Section 16-108 requires that delivery services be cost-based and subject to Article IX of the Act. IIEC also emphasizes that no utility witness testified that unbundling of revenue cycle services would result in an undue impact on electric utility employees. IIEC asserts that any displaced employees will likely be assigned to other tasks and functions. Finally, IIEC indicates that the unbundling of revenue cycle services are part and parcel of the competitive electric energy market in Illinois. IIEC points out that other jurisdictions are already unbundling these services. (*Id.* at 18-21)

C. The City's Position

The City recommends that the Commission conclude that metering and billing should be unbundled. The City did not address whether customer handling service should be unbundled since the City believes that such services have not been well-defined.

The City states that the 1997 Amendments to the Act, in numerous places, require that the Commission take actions that will enhance customer choice or promote competition. (See, e.g., Sections 16-102(d), 16-108(a), 16-109, 16-118(a), 16-119A(a) and 16-121) The City contends that unbundling will promote the goals of the 1997 Amendments. City witness Walter testified that unbundling of delivery services will increase the competitiveness and efficiency of retail electric markets. He indicated that unbundling lowers barriers to entry by giving competitors flexibility in the way they offer services, rather than having consumer offerings determined by the individual unbundling decisions of the incumbent utilities competing in the same market. (City Brief at 5-6; City Ex. 1.0 at 7)

The City asserts that there is a sufficient record to consider the three factors specified in Section 16-108(a) of the Act. With regard to the development of competitive markets for electric energy services in Illinois, the City states that the evidence demonstrates that unbundling will increase customer choice and promote competition.

The City indicates that only Mt. Carmel witness Long indicated that unbundling metering could result in an increase in rates. The City contends that Mr. Long's opinion is not supported by any analysis or facts. The City also asserts that the utilities are the only parties that could have presented information on any adverse effects on utility employees and that the utilities failed to present such information. (City Brief at 6-7)

In response to the argument of ComEd that a decision to unbundle delivery services cannot be made until the costs and benefits of such unbundling are carefully studied, the City cited the testimony of MidAmerican witness Czachura that such an effort would be relatively fruitless since it is an impossible task to estimate the benefits of consumer choice and the resulting efficiencies and innovation. In any event, the City asserts that the General Assembly has made a legislative finding that the prospective benefits of competition will outweigh continuing monopoly service in markets where competition is possible. (*Id.* at 7)

D. Alliant's Position

Alliant contends that the Commission should make a policy decision that metering, meter reading, billing for competitive electric services and customer information services related to the provision of competitive electric services should be unbundled. Alliant indicates that the unbundling of metering should include meter ownership, installation and maintenance. (Alliant Brief at 6-7 and 11)

E. Ameren's Position

Ameren contends that the expedited schedule in this docket did not allow the development of a sufficient record on the three factors specified in Section 16-108(a) of the Act. Ameren asserts that there is no evidence in the record regarding expected rate levels or the effect of unbundling on utility employees. Ameren further asserts that there is no study or detailed analysis of the effect of unbundling on competition. Ameren indicates that parties were able to address the three factors at only the most general level. (Ameren Brief at 3)

Ameren concludes that the Commission should not make a policy decision on unbundling at this time. Ameren recommends that the Commission initiate an investigation into the potential costs and benefits of unbundling delivery services to determine whether unbundling will benefit the consumer. (*Id*. at 3 and 7)

F. ComEd's Position

ComEd indicates that the Commission should not order the unbundling of metering, billing or customer handling in this docket. Instead, ComEd recommends that the Commission initiate a proceeding on or about September 1, 1999 to consider the statutory factors required in Sections 16-108 and 16-109 for unbundling, as well as the business and technical requirements for additional unbundling. (ComEd Brief at 2)

ComEd contends that the Commission should not order any unbundling of metering, billing and customer handling until there is a demonstration that the customer benefits from such unbundling outweigh the costs and risks. ComEd witness Makholm testified that the restructuring of the electricity market should focus on the changes that are likely to provide the greatest benefits to end-use customers. He indicated that the greatest potential benefit is in generation, which accounts for the largest portion of end-user costs and which has experienced dramatic declines in costs in recent years. He stated that unbundling of metering and billing is likely to be an expensive process, and that the benefits of such unbundling are highly unlikely to outweigh the costs. (ComEd Brief at 7-8; ComEd Ex. 4 at 9-10)

ComEd asserts that the hearings in this docket have not addressed the statutory criteria for unbundling set forth in Sections 16-108 and 16-109 of the Act. Therefore, ComEd concludes that the record does not support the unbundling of additional delivery services. ComEd emphasizes that the utilities have just filed their tariffs in proceedings that will define the delivery services at issue and the costs associated with such delivery services. (ComEd Brief at 17-19)

G. IP's Position

IP contends that consideration of the unbundling of "customer handling" should be dismissed at this time because there has been no definition or delineation of what "customer handling" is intended to cover. (IP Brief at 3 and 6)

IP indicates that it is not categorically opposed to unbundling metering and billing services. In fact, IP believes that at least some unbundling of metering and billing is inevitable. IP, however, opposes a policy decision at this time that metering and billing should be unbundled for a number of reasons. First, IP submits that the record is virtually devoid of any information regarding the effect of unbundling metering and billing on electric utility employees. IP asserts that the "effect on electric utility employees" requires an examination of the impacts on employment and worker safety. (*Id.* at 1 and 7)

Second, IP contends that the record does not demonstrate that customers want unbundled metering and billing, at least at the outset of the provision of customer choice in generation services. IP witness Reynolds testified that IP is not finding that its customers are requesting the unbundling of delivery services. He acknowledged that certain large customers have expressed a desire for the unbundling of metering and billing, but observed that their principal concern is a desire to have more sophisticated metering installed at their premises that will provide real-time demand usage information and other information at different intervals or in different formats than are commonly provided today. He asserted that equipment with these kind of capabilities can be installed behind the customer's existing meter. Therefore, he concluded that the unbundling of metering and billing is not needed to enable these customers and their suppliers to acquire complex data. (*Id*. at 7-8)

Third, IP indicates that there are questions as to whether unbundling of metering and billing will be economically beneficial to customers. IP states that the threshold question is whether the cost of metering and billing in relation to the customer's total cost of service is large enough to interest the customer in switching to an alternative provider of these services. IP indicates that the potentially small savings to customers from the unbundling of metering and billing must be balanced against the potentially significant costs, particularly if the expedited implementation of unbundling disrupts the initial provision of customer choice of generation services in October 1999. (*Id.* at 9-11)

Fourth, IP asserts that there are many complex technical and procedural issues associated with unbundling of metering and billing that must be resolved before implementation can proceed. (*Id*. at 11-15)

IP proposes that the Commission defer consideration of the unbundling of metering and billing services until after the utilities' delivery services implementation plan and tariff cases are completed. IP recommends that the Commission institute a proceeding on or about September 1, 1999 to address whether, to what extent and on what terms and conditions metering and billing should be unbundled. (*Id*. at 3)

H. MidAmerican's Position

MidAmerican indicates generally that as many services as possible should be unbundled and open to competition. MidAmerican states that opening as many services as possible to competition increases the chances for robust competition in the electric market. MidAmerican indicates, however, that the services to be unbundled need to be better defined. (MidAmerican Brief at 3 and 5)

I. Mt. Carmel's Position

Mt. Carmel contends that services such as metering and billing that are essential for delivery services should be neither unbundled nor declared competitive. Mt. Carmel further contends that if a service is unbundled, the service can only be provided by the electric utility. In reaching this conclusion, Mt. Carmel cites the definitions of "delivery services" and "unbundled services" in Section 16-102 of the Act. Mt Camel notes that "delivery services" are defined as "those services **provided by the electric utility** that are necessary in order for the transmission and distribution systems to function so that retail customers located in the electric utility's service area can receive power and energy from suppliers other than the electric utility, and **shall include, without limitation, standard metering and billing services**." (emphasis added by Mt. Carmel) Mt. Carmel also notes that "unbundled services" are defined as "a component or constituent part of a tariffed service which the **electric utility** subsequently offers separately to its customers." (emphasis added by Mt. Carmel) Mt. Carmel asserts that there is no language in the Act that authorizes anyone other than the electric utility to provide standard metering, billing services or customer handling or to provide unbundled services. (Mt. Carmel Brief at 3-4)

J. Staff's Position

Staff contends that the Commission should not determine at this time that metering, billing and customer handling should be unbundled. Staff contends that the record in this docket indicates that the additional unbundling of delivery services will have a negative effect on the three factors mentioned in Section 16-108(a) of the Act: (i) the objective of just and reasonable rates; (ii) electric utility employees; and (iii) the development of competitive markets for electric energy services in Illinois. Staff asserts that the unbundling of delivery services may limit the extent to which customers experience cost reductions due to economies of scale in the implementation of new technologies. In other words, Staff contends that possible benefits from economies of scale may be jeopardized by piecemeal adoption of an unbundled delivery service technology. (Staff Brief at 11-12)

Staff contends that the unbundling issue should be examined after the onset of the competitive market for power and energy. Staff indicates that unbundling should not be required until the necessary business systems, standards, procedures and administrative rules are in place. (*Id*. at 9-10)

K. Commission's Conclusion

The issue is whether the Commission should make a policy decision at this time that metering, billing and customer handling should be unbundled. Before resolving this issue, it is necessary to clarify what constitutes an unbundled service. The Commission agrees with Staff witness Kennedy's explanation that an unbundled service is a service offered and priced separately by the utility that the customer is allowed to purchase from third party providers. The customer is allowed to purchase the remaining services of the utility without necessarily buying the unbundled service. The Commission cannot accept Mt. Carmel's position that an unbundled service can only be provided by the electric utility. Mt. Carmel's position would defeat the purpose of unbundling a service, which is to allow for competition from alternative providers.

The Commission is unable to conclude at this time that customer handling should be unbundled. As pointed out by the City and IP, there is no definition or delineation in the record of the services that comprise "customer handling." The absence of an explanation of "customer handling" precludes a decision at this time that "customer handling" should be unbundled. The unbundling of "customer handling" may be considered in the next phase of this proceeding, described in Section V.H. of this Order, if a clear explanation of the services that comprise "customer handling" is provided.

Based on its examination of the record, the Commission concludes that metering and billing should be unbundled. In reaching this conclusion, the Commission has considered the effect of such unbundling on (i) the objective of just and reasonable rates, (ii) electric utility employees, and (iii) the development of competitive markets for electric services in Illinois, as required by Section 16-108(a) of the Act. The Commission concludes that unbundling will not have a negative impact on the objective

of just and reasonable rates. Section 16-108 of the Act requires that the rates for delivery services be cost-based and subject to review under Article IX of the Act. Section 9-101 of the Act requires that rates be just and reasonable.

The Commission also concludes that there is no evidence in the record that the unbundling of metering and billing will negatively impact electric utility employees. The evidence indicates that the electric utilities' revenues from metering and billing are a small portion of their total revenues. Enron/NEV witness O'Connor testified that any displacement of utility employees would be small and likely well below normal employee turnover and attrition rates. He indicated that any displaced employees could be employed elsewhere by the utility. (ARES Ex. 2.0 at 16) No utility witness presented testimony that the unbundling of metering and billing would have an adverse impact on utility employees.

The Commission concludes that the unbundling of metering and billing will promote the development of competitive markets for electric energy in Illinois. The evidence indicates that there is customer interest in unbundling these services and that unbundling could result in innovation and greater efficiency. Further, the unbundling of these services allows customer choice for additional services besides generation services.

Various parties have argued that there must be a demonstration of net economic benefits before a service can be unbundled. The Commission disagrees. Section 16-108 of the Act does not require an empirical demonstration of economic benefits. The Commission concurs with MidAmerican witness Czachura's observation that it is an impossible task to estimate the benefits of customer choice and the resulting efficiencies and innovations.

V. TIMEFRAME FOR UNBUNDLING

As discussed above in Section IV, the Commission has decided that metering and billing services should be unbundled. As a result, it is necessary to establish the schedule upon which such unbundling will occur.

A. MidAmerican's Position

MidAmerican states that further unbundling should begin on May 1, 2001. MidAmerican asserts that this proposed schedule would allow the parties to address any problems experienced with unbundling the competitive generation market and to implement the additional system and process changes necessary to unbundle additional delivery services. According to MidAmerican, this proposal would allow a full year of unbundled delivery service testing before residential access begins. MidAmerican asserts that the date is not so far distant that potential competitors would consider it to be a disincentive to participate in the Illinois market. (MidAmerican Brief at 5-6)

B. ComEd's Position

ComEd states that it does not oppose consideration of price unbundling or of unbundling of delivery services in an appropriate manner that does not interfere with implementing direct access beginning October 1, 1999. (ComEd Brief at 1) ComEd asserts that the Commission should initiate a proceeding on or about September 1, 1999, to consider the statutory factors required in Sections 16-108 and 16-109 for unbundling, as well as the business and technical requirements for additional unbundling. ComEd recommends that the new proceeding be supplemented with subject matter technical workshops like those used in Docket No. 98-0680 to develop consensus and common processes, with a hearing to take place after the workshops conclude. ComEd proposes that such a proceeding be concluded with an order entered on or about September 1, 2000 providing a timely and efficient implementation of any unbundling of metering, billing or customer service determined by the Commission. (*Id.* at 2)

ComEd states that Enron/NEV witness O'Connor admitted upon cross-examination that metering, billing and customer service could not be effectively unbundled by October 1, 1999. According to ComEd, there is simply not enough time to do the work. (*Id*. at 2-3)

C. IP's Position

IP states that there are many issues to be considered and resolved before metering and billing can be unbundled, and that it would be unwise to attempt to implement unbundling of metering and billing by October 1, 1999. IP proposed the following procedure:

1. Further consideration of unbundling should be deferred until on or about September 1, 1999 (after the completion of the delivery services tariff cases). At that time, consideration of unbundling should resume, either in a new docket or continuation of this docket or another existing docket.

2. The proceeding commencing in September 1999 should be scheduled so as to result in a Commission order by on or about May 1, 2000, determining whether, to what extent and on what terms and conditions metering and billing should be unbundled.

3. The proceeding should include both evidentiary hearings and a workshop process, with the latter focused on allowing industry participants to discuss and attempt to develop solutions to the many technical and business process issues.

4. Implementation of the results of the May 1, 2000 order should be required by on or about September 1, 2000, but in any event before

> the second phase of customer choice of generation services which begins on December 31, 2000.

(IP Brief at 18-19)

IP asserts that this approach would defer any unbundling of delivery services until market participants have had about a year of experience with the initial provision of delivery services and customer choice of generation suppliers. IP states that its proposal would remove the need to consider this topic in docketed proceedings while the utilities and potential generation suppliers are addressing (in both hearings and otherwise) the many other issues that must be resolved to successfully implement customer choice of generation services beginning October 1, 1999. IP argues its proposal would allow for consideration of the issues related to unbundling of delivery services in a less pressured and hectic environment. IP claims it would provide time to implement the additional or revised business processes and procedures and system changes needed to accommodate unbundling of delivery services. IP claims its proposal would provide for implementation to occur at a time other than the date of a major step in the legislatively-mandated phase in of customer choice of generation services. IP states that its schedule would also allow any unbundled delivery services which the Commission finds to be appropriate to be in place by December 31, 2000, when all non-residential customers will have choice of generation services. (*Id*.)

D. Staff's Position

Staff states that it is premature at this point to decide the effective date of unbundling. Instead, Staff's view is that there is first a need for evidentiary hearings. Staff states that the Commission should, at some point after October 1, 1999, initiate a proceeding to consider the effect of additional unbundling on the objective of just and reasonable rates, electric utility employees, and the development of competitive markets for electric energy services in Illinois pursuant to Section 16-108(a). If the Commission orders additional unbundling, Staff suggests the same proceeding or a second proceeding should be completed in time for those unbundled services ordered by the Commission to be offered on December 1, 2000. Staff indicates that proceeding should be conducted with a workshop process similar to those conducted within the 98-0680 proceeding and identifies numerous issues which should be entertained on the agenda. (Staff Brief at 13)

Staff states that the Commission should set deadlines or targets requiring that certain clearly identified tasks be performed by the working groups regarding the effect of additional unbundling. During the docket, Staff states that the parties should be required to keep the Commission informed as to the progress achieved regarding these issues, and when it appears likely that consensus is reached, the parties should submit an interim order to the Hearing Examiner. Conversely, when it appears unlikely that further consensus will be achieved, Staff suggests there should be a procedure in place to allow for hearings to resolve the outstanding issues. (*Id*. at 15-16)

E. The City's Position

The City asserts that the evidence of record shows that meter ownership, installation and servicing can be unbundled expeditiously. The City notes that its witness, Mr. Walter, testified that the City and its Municipal Power Alliance partners (the Chicago Transit Authority, the Chicago Public Schools, the Chicago Park District, and the City Colleges of Chicago) have already been contacted by numerous metering vendors, including an unregulated subsidiary of ComEd's parent corporation to provide such metering services. In addition, the City asserts that it and its Municipal Power Alliance partners are interested in the Commission ordering as much unbundling as is practicable. The City states that because there are alternative vendors willing to provide metering services and there are customers that want access to these services, the Commission should find that these services should be unbundled as soon as reasonably possible. (City Brief at 8-9)

The City states that while metering services are ripe for unbundling, the same may not be true for billing services. The City states that it and its fellow Municipal Power Alliance members have been receiving hand-written bill estimates instead of bills produced by ComEd's new billing system. The City states that these estimates have not always been provided in a timely manner. (*Id.* at 9)

The City indicates it would not oppose a delay in the implementation of the unbundling of delivery services for a reasonable and firmly limited period, but only if the Commission adopts a policy ordering unbundling in this docket. The City states that such a delay in implementation of the policy will allow the utilities and other interested parties to meet and develop the processes and systems necessary to implement both metering and billing unbundling. (*Id.* at 10)

Assuming that the Commission adopts such a policy in this case, the City proposes that the Commission include in its order the following schedule:

May 1, 2000	Utilities have all systems in place necessary to implement both metering and billing unbundling.
September 1, 2000	Metering and billing unbundling is implemented.

The City states that it is important that the Commission establish hard deadlines for developing the necessary processes and implementation date since utilities have obvious economic incentives to delay the onset of unbundling. The City states that the Commission should allow utilities to seek a waiver from the implementation date only if they can explain why they cannot meet the implementation date and can show a plan to satisfy the Commission's unbundling objective within a specified, reasonable amount of time. (*Id.* at 10-11)

F. IIEC's Position

IIEC states that the Commission should, soon after the termination of this docket, initiate a proceeding that requires the parties to meet in workshops to address further the issues or concerns that have been raised in this proceeding and, perhaps, other issues and concerns yet to be articulated or raised. IIEC claims the first step or milestone should be to present the Commission with an agreed set of issues and a timetable to implement unbundling within twelve (12) months from the date of the initiating order. IIEC states that this timetable would begin the unbundling of revenue cycle services in early to mid 2000. Finally, IIEC states that the Commission should also recognize that in the context of Docket 98-0680 as well as in this proceeding, much work has taken place as to these particular matters and the record therein should be appropriately incorporated. (IIEC Brief at 13)

G. Enron/NEV's Position

Enron/NEV state that the Commission should immediately order the unbundling of metering, billing, and customer handling in order to promote the development of a competitive market in Illinois. (Enron/NEV Brief at 2) Enron/NEV state that it is noteworthy that while ComEd argues for delay in unbundling, its own unregulated affiliate has been in contact with the City proposing independent metering. (*Id*. at 11) Enron/NEV claim that the Commission should disregard the utilities scare tactics, which are lacking in credibility. Citing Alliant witness Nicolai, Enron NEV assert that clear policy direction is needed now, in this docket. (*Id*. at 14-15)

Enron/NEV state that the Commission should reject the utilities' assertions that unbundling cannot proceed. They state unbundling of billing, metering and customer handling services is a reality in other states where competition has been implemented. They assert that the performance of these services by parties other than utilities would not directly affect reliability or operation of the electric power network. Enron/NEV state that the General Assembly specifically incorporated standard metering and billing into mandatory delivery services, since they are not actually necessary network services. In contrast, they state that the General Assembly did not have to specify the various ancillary services that may support the reliability and functioning of the network. (*Id.* At 15)

Enron/NEV argue that the assertion that utilities cannot possibly accommodate customer choice in billing, metering and customer handling services in anything less than 18-24 months is belied by actual experience. They assert California utilities and several in Pennsylvania have shown that they can do it well within the time frames that have been available to Illinois utilities. They claim that those states provided for manual workarounds at the initial stages, and perfected the systems after the market for these services was opened for competition. (*Id.*)

Enron/NEV state that the utilities cannot credibly claim that the issue of unbundling billing, metering and customer handling services comes as a surprise to them in terms of their ability to prepare for unbundling. They assert the utilities will have had nearly three years to prepare prior to the commencement of open access on October 1 of this year. (*Id.* at 15-16)

Enron/NEV state that the utilities benefit from less competition. They claim this explains their tendency at every turn to delay competition or to make it more expensive and less convenient for customers to exercise choice. They state that if deferral of unbundling billing, metering and customer handling services would help move competition along, then customers and new entrants probably would be seeking to defer, rather than expedite, the process of unbundling. (*Id.* at 16)

Enron/NEV state that the Commission should not allow the utilities to assert purported "safety issues" to justify a delay in the unbundling of these services. They state as long as the Commission adopts certification procedures such as those in California, there should be no problem. (*Id.* at 17)

H. Commission's Conclusion

Enron/NEV recommend that the Commission order the utilities to implement unbundling of billing, metering, and customer handling on October 1, 1999. The record demonstrates that this proposal is not feasible. Even assuming that Enron/NEV are correct that there was sufficient time between the enactment of the 1997 Amendments to the Act and October 1, 1999 to implement such unbundling, the record indicates that it is now too late to implement unbundling by October 1, 1999.

Ensuring that the market for electric power and energy is opened to alternative retail electric suppliers on October 1, 1999 must be the Commission's focus at this time. Unbundling of delivery services, while important, is a lower priority.

The parties presented a range of alternatives regarding the schedule for unbundling delivery services. With some modifications, IP's proposal appears most reasonable. The proposals of several parties include schedules quite similar to IP's. Those parties that seek additional delays in unbundling have failed to justify such delays. Consistent with the Commission's findings regarding unbundling of delivery services above, the Commission adopts the following procedure:

1. Further consideration of unbundling will be deferred until approximately September 1, 1999 (after the completion of the delivery services tariff cases). At that time, consideration of unbundling will resume in this docket.

2. This proceeding will be reactivated in September 1999, and will be scheduled to result in a Commission order by May 1, 2000, establishing how metering and billing should be unbundled.

3. The proceeding should include both evidentiary hearings and a workshop process, with the latter focused on allowing all interested parties to discuss and attempt to develop solutions to the many technical and business process issues.

4. Implementation of the results of the order identified in (2) above will occur so that by September 1, 2000 alternative providers will have an opportunity to provide metering and billing services. This schedule will provide a period during which parties other than incumbent utilities will have an opportunity to provide metering and billing services prior to the second phase of customer choice of generation services which begins on December 31, 2000.

VI. EXCEPTIONS FOR VERY SMALL UTILITIES

A. Mt. Carmel's Position

Mt. Carmel requests that it be granted an exception to any order approving unbundling of metering, billing, and customer handling because it is unique in both size and structure. Mt. Carmel emphasizes that it is a very small stand alone public utility and can not share costs with any other entity. Mt. Carmel points out that if another supplier is allowed to come into its territory and displace Mt. Carmel's services, those lost revenues would cause undue hardship and harm. Mt. Carmel states that it has no generation services to fall back on and would be unable to replace any revenues lost to third parties supplying metering, billing, or customer handling. (Mt. Carmel Brief at 7)

B. Staff's Position

Staff takes the position that if unbundling is ordered, a further examination is necessary to determine the relative capabilities of the very small utilities and other providers to perform the service. (Staff Brief at 12)

C. MidAmerican's Position

MidAmerican states that it does not oppose the consideration of a provision by which very small utilities are provided the opportunity to seek relief from the Commission when they do not have the customer base or other services available to sufficiently allocate costs or replace lost revenues resulting from unbundling. (MidAmerican Brief at 6)

D. Enron/NEV's Position

Enron/NEV assert that no evidence has been presented that would justify an exemption for small utilities. Enron/NEV argue that the Commission should not pre-judge whether very small utilities should be granted an exemption in this docket, but rather it should be decided on a case-by-case basis. (Enron/NEV Brief at 17-18)

E. IP's Position

IP does not take a position on whether very small utilities should be granted an exception. IP does note that it would be fundamentally unfair to exempt Interstate Power Company and South Beloit Water, Gas and Electric Company from any unbundling requirements at the same time that their corporate affiliates are marketing metering and billing services to retail customers of other Illinois electric utilities. (IP Brief at 20)

F. Commission's Conclusion

The Commission is aware that Mt. Carmel is the only Illinois electric utility that would fit the definition of a "very small utility." Other small Illinois electric utilities are not stand-alone and do have the benefit of affiliation with other entities. The Commission finds that any exception from further unbundling for very small utilities would apply only to Mt. Carmel. The Commission also finds that an exception should be granted on a case-by-case basis if it is shown that further unbundling is not warranted. Mt. Carmel asserts that it would be at a disadvantage under unbundling and may have to increase delivery service rates and/or increase rates to gas customers. Mt. Carmel, thus far, has failed to demonstrate that an exception is warranted. Therefore, the Commission cannot grant Mt. Carmel a special exception without further inquiry.

VII. EFFECT OF UNBUNDLING ON THE TRANSITION CHARGE

A. Background

This proceeding was initiated to investigate and make a determination with respect to how the transition charge will be applied to customers taking unbundled delivery services. (Initiating Order at 3) The Act defines the transition charge as:

> "*Transition charge" means a charge expressed in cents per kilowatt-hour that is calculated for a customer or class of customers as follows* for each year in which an electric utility is entitled to recover transition charges as provided in Section 16-108:
>
> (1) *the amount of revenue that an electric utility would receive from the retail customer or customers if it were serving such customers' electric power and energy requirements as a tariffed service* based on (A) all of the customers' actual usage during the 3 years ending 90 days prior to the date on which such customers were first eligible for delivery services pursuant to Section 16-104, and (B) on (i) the base rates in effect on October 1, 1996 (adjusted for the reductions required by subsection (b) of Section 16-111, for any reduction resulting from a rate decrease under Section 16-101(b), for any restatement of base rates made in conjunction with an elimination of the fuel adjustment clause pursuant to subsection (b), (d), or (f) of Section 9-220 and for any removal of decommissioning costs from base rates pursuant to Section 16-114) and any separate automatic rate adjustment riders (other than a decommissioning rate as

defined in Section 16-114) under which the customers were receiving or, had they been customers, would have received electric power and energy from the electric utility during the year immediately preceding the date on which such customers were first eligible for delivery service pursuant to Section 16-104, or (ii) to the extent applicable, any contract rates, including contracts or rates for consolidated or aggregated billing, under which such customers were receiving electric power and energy from the electric utility during such year;

(2) *less the amount of revenue,* other than revenue from transition charges and decommissioning rates, *that the electric utility would receive from such retail customers for delivery services provided by the electric utility, assuming such customers were taking delivery services for all of their usage, based on the delivery services tariffs in effect during the year for which the transition charge is being calculated* and on the usage identified in paragraph (1);

(3) less the market value for the electric power and energy that the electric utility would have used to supply all of such customers' electric power and energy requirements, as a tariffed service, based on the usage identified in paragraph (1), with such market value determined in accordance with Section 16-112 of this Act;

(4) less the following amount which represents the amount to be attributed to new revenue sources and cost reductions by the electric utility through the end of the period for which transition costs are recovered pursuant to Section 16-108, referred to in this Article XVI as a "mitigation factor":

(A) for nonresidential retail customers, an amount equal to the greater of (i) 0.5 cents per kilowatt-hour during the period October 1, 1999 through December 31, 2004, 0.6 cents per kilowatt-hour in calendar year 2005, and 0.9 cents per kilowatt-hour in calendar year 2006, multiplied in each year by the usage identified in paragraph (1), or (ii) an amount equal to the following percentages of the amount produced by applying the applicable base rates (adjusted as described in subparagraph (1)(B)) or contract rate to the usage identified in paragraph (1): 8% for the period October 1, 1999 through December 31, 2002, 10% in calendar years 2003 and 2004, 11% in calendar year 2005 and 12% in calendar year 2006; and

(B) for residential retail customers, an amount equal to the following percentages of the amount produced by applying the base rates in effect on October 1, 1996 (adjusted as described in subparagraph (1)(B)) to the usage identified in paragraph (1): (i) 6%

from May 1, 2002 through December 31, 2002, (ii) 7% in calendar years 2003 and 2004, (iii) 8% in calendar year 2005, and (iv) 10% in calendar year 2006;

(5) divided by the usage of such customers identified in paragraph (1), provided that the transition charge shall never be less than zero.

220 ILCS 5/16-102 (*emphasis added*)

In very simple terms, the transition charge equals base rates less: (1) the market value of generation, (2) delivery service charges, and (3) the mitigation factor specified in the Act.

B. Parties Asserting Unbundled Delivery Services do not Affect the Transition Charge

The City states that the calculation of transition charges and the effect of delivery services revenues on that calculation are straightforward. The City states that subpart (2) of the definition of "transition charges" requires that the Commission subtract the revenue that the utility would receive from "customers for delivery services provided by the electric utility, assuming such customers were taking delivery services for all of their usage." Thus, the City concludes that the Commission is to assume that customers are taking all of their delivery services requirements from utilities and is to subtract the associated revenues in the transition charge calculation. (City Brief at 11)

The City asserts that requiring customers who purchase unbundled delivery services from alternative providers to pay transition charges for lost revenues associated with delivery services is inconsistent with the intent of the 1997 Amendments to the Act. The City argues that requiring customers to pay both an alternative provider for billing and metering delivery services and their incumbent utility for the same delivery services will destroy competition and effectively eliminate customer choice. The City claims that in such circumstances, "no consumers in their right minds would take such service from an alternative provider." (*Id.* at 12)

IIEC states it is not a certainty that all customers will pay a transition charge throughout the transition period. (IIEC Ex. 1.0 at 4) Therefore, IIEC concludes that it is inappropriate to derive a policy decision based on faulty assumptions pertaining to the transition charge. (IIEC Brief at 14)

IIEC states it is IP's position that even though customers would not pay explicitly for unbundled services not taken, they would pay equivalent revenues as an increase in the transition charge. IIEC claims that this is so because the unbundled service was determined to be necessary, and a third party would presumably be paid for the service. IIEC asserts that while the service is purchased only once, the effect would be to collect revenues equal to the sum of the utility unbundled rate (in the transition charge) and the

price paid to the third party; the effect is to pay twice. (*Id.* at 14-15) IIEC concludes that IP's viewpoint on the calculation of the transition charge would be contrary to the overall goal and purpose of the Customer Choice Law, to promote customer choice and a "competitive electricity market" and "create opportunities from new products and service." (*Id*. at 15)

Enron/NEV state that the Commission should not allow utilities to charge customers for delivery services that the customers do not purchase from the utilities. They argue that the utilities distort the mechanics of calculating the transition charges. Enron/NEV state that aside from the mandatory fixed mitigation factor, only two items are deducted from the total revenue for the "test" years for which the transition charge is being set. They state that one item deducted is the market value of generation as determined through the Neutral Fact-Finder process or by a Commission adopted index. They indicate that the second and only other deduction is "the amount of revenue . . . that the utility would receive from such retail customers for delivery services provided by the electric utility, assuming such customers were taking delivery services for all of their usage, based on the delivery services tariffs in effect during the year for which the transition charge is being calculated and on the usage identified in paragraph (1)" of the definition of transition charge. (Enron/NEV Brief at 18-19)

Enron/NEV state that the total revenue in question is the revenue that the utility would receive from a large customer or from a class of customers if the utility were "serving such customers' electric power and energy requirements as a tariffed service based on . . . all of the customer usage" in the prior test period, with certain adjustments. They argue that under an Article IX proceeding, the Commission will approve delivery services tariffs for each utility that will be designed to recover the costs of providing the service; presumably these tariffs will take into consideration what the utility's sales will be. Thus, they argue, that in the setting of delivery charges, an estimate will be made of the number of customers who would not purchase billing, metering and customer handling service from the utility. (*Id.* at 19)

Enron/NEV argue that under the 1997 Act, the utility must decide whether raising the tariffs for delivery services for a class of customers will tend to drive more customers toward billing, metering and customer handling services provided by new entrants. They assert that this is the cycle of sales repression and rising base prices that drove the competitive idea in the first place when rising utility rates due to new, expensive power plants drove sales down, spurring additional price increases under traditional ratemaking principles. (*Id.* at 19-20)

Enron/NEV conclude that the Commission should not allow utilities to improperly and illegally shift the cost to the transition charge. They state that the Commission should not force a customer to pay the utilities' shareholders for delivery services which the utility is not providing to the customer. (*Id.* at 20)

Enron/NEV witness O'Connor also testified that lost revenues recoverable through the transition charge are associated with generation assets and are exclusive of

any lost revenues associated with loss of market share in delivery services. (ARES Ex. 1.0, p. 23)

MidAmerican states that the most straightforward way to accomplish the goals of additional unbundling while applying transition charges would be to leave the application of transition charges unchanged. MidAmerican states that the full delivery rates, including those related to services that will be unbundled, would be taken as a deduction from base rates and the calculation of the transition charge. MidAmerican states that for services that will be unbundled, if a customer purchases those services from someone other than the delivery company, the customer will receive a credit equal to the cost reductions realized by the delivery company resulting from not having to provide such services to those customers. (MidAmerican Brief at 6)

It is the position of Staff that there should be no adjustments to transition charges for enhanced delivery services provided by the utility, no adjustment for market losses associated with unbundling, and no adjustment for the delivery services declared to be competitive. Staff asserts that this method leads to just and reasonable transition charges. (Staff Brief at 8)

Staff states that adjusting transition charges for the fact that the utility loses some revenues to third party providers of unbundled services is inappropriate. Staff claims that the base period revenues include delivery services embedded in bundled rates for all customers. Staff states that the corresponding lowering of the delivery services offset would result in customers paying for the embedded cost of providing all customers with the delivery services. According to Staff, such an adjustment would result in utilities being compensated for providing all customers with the unbundled service even though the utility does not provide the unbundled service to all of its customers. (*Id*. at 21)

Finally, Staff asserts that transition charges should not be adjusted to reflect delivery services that were embedded in bundled rates and are declared to be competitive. Staff states that taking the revenues associated with these services out of the transition charge offset would result in the customer paying twice for the services. Staff claims that when the service is provided to the customer by others, the competitive service costs would be in base revenues and utilities would be compensated through the transition charge for services they do not provide. (*Id*. at 21-22)

ComEd states that if a customer were to procure metering or another unbundled delivery service from someone other than ComEd, the customer would pay the same transition charge as any other customer not taking unbundled delivery services. ComEd indicates that the customer would (i) pay the alternate provider for the unbundled delivery service at the price agreed upon; and (ii) receive a delivery service charge credit reflecting appropriate avoided costs. The transition charge calculation, according to ComEd, is computed based upon a standard set of charges and credits for each component of delivery services and on a pre-determined market value for electricity. ComEd concludes that whether a customer takes unbundled delivery services from

another provider would therefore ultimately be reflected in the delivery service charges paid by the customer, not by any change to the transition charge. (ComEd Brief at 19)

C. The Party Asserting the Transition Charge must be adjusted to reflect Unbundled Delivery Services.

IP argues that if the Commission decides that delivery services customers can purchase metering and billing from alternate providers, then the unbundled services are no longer "delivery services" under the Act. IP states that by definition, metering and billing would no longer be "services provided by the electric utility that are necessary in order for the transmission and distribution systems to function so that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility." IP concludes, therefore, that the revenue which the utility is no longer receiving from the customer should not be included in the customer's delivery services revenues which are deducted in calculating transition charges. IP asserts that to do otherwise would treat the utility as receiving revenues it does not in fact collect.
(IP Brief at 20-21)

IP asserts that there is no basis in the language of the Act for the contention that the transition charge only provides for recovery of lost revenues associated with generation services. IP claims the formulaic definition of "transition charge" in Section 16-102 is intended to allow the electric utility to recover lost revenues resulting from a customer switching to an alternate provider. IP states that the transition charge was designed to allow the utility to recover, for a fixed and limited time period, a portion of the revenues the utility loses as a result of the customer taking service from other providers. IP asserts that the language of the Act in no way limits "lost revenues" to those "lost" due to a customer taking generation services from another provider. (*Id*. at 21-22)

IP asserts that the language "for all their usage," contained in the definition of transition charges, only serves to direct the utility to calculate the delivery services revenue deduction of the transition charge based on the assumption that the same historical KW and kwh were obtained by the customer through delivery services as were used to calculate the base revenue component of the transition charge. In other words, IP asserts that in this calculation, delivery services are assumed to be used to serve all of the customer's base period load, not just a portion of it. IP further asserts that metering and billing are not "usage" but, kilowatts and kilowatt-hours are usage. IP concludes that the phrase "for all their usage" does not require that revenues the utility does not in fact receive be treated as existing in the transition charge calculation. (*Id.* at 22)

IP also states that the issue of whether or not to include lost delivery services revenues due to unbundling in the delivery services deduction component of the transition charge calculation becomes a non-issue from the utility's perspective if the Commission properly bases the delivery services credit that would be given to

customers obtaining metering and billing from alternate providers on the utility's incremental or decremental saved costs. IP claims that the impact of any lost revenues to the utility would then be offset by the cost savings of not providing the service. According to IP, under this approach, the utility would not be affected from an economic perspective by including the phantom metering and billing revenues in the delivery services revenue deduction component of the transition charge calculation. (*Id.* at 23)

D. Commission's Conclusion

IP asserts that, by definition, unbundled delivery services are no longer "delivery services" under the Act for those customers taking the unbundled delivery services from an alternate supplier. IP's interpretation of the Act is unreasonable. The Act defines delivery services as:

> "Delivery services" means those services provided by the electric utility that are necessary in order for the transmission and distribution systems to function so that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility, and shall include, without limitation, standard metering and billing services.

220 ILCS 5/16-102

Under IP's proposal, a customer receiving a service from an alternate supplier would not receive a "delivery service" while a different customer receiving the exact same service from the incumbent utility would receive a "delivery service." However, Section 16-104 states in part, "the electric utility shall offer delivery services (i) to any non-residential customer . . . " and Section 16-108 (c) states in part: "[d]elivery services shall be priced and made available to all retail customers electing delivery services . . . . " This is in direct conflict with IP's interpretation. The statute explicitly states that delivery services are offered by electric utilities, not that services which are taken by customers are classified as delivery services.

The Commission finds that the language in the definition of delivery services, "services provided by the utility," differentiates delivery services from services that a utility does not provide to any of its customers. The Commission further concludes that whether a customer actually takes a service from the incumbent utility or an alternate supplier does not determine if that service is a "delivery service" as defined in the Act.

In its Brief on Exceptions, IP states that its position on this issue is that once the Commission determines that a "delivery service" component can be unbundled and that customers have the opportunity to obtain the service component from alternate providers, the service component no longer falls within the Act's definition of "delivery services" for any customer. (IP Brief on Exceptions at 13) Staff points out that Section 16-102 of the Act expressly states that delivery services "shall include, without limitation, standard metering and billing services." (Staff Reply Brief on Exceptions at

12) Staff also states that in order to be a delivery service, a service need only be a service provided by the utility that is necessary for customers to purchase electricity provided by other suppliers. In other words, the service need not be provided exclusively by the utility. (*Id*.) For the reasons articulated by Staff, the Commission concludes that IP's interpretation of the Act is incorrect.

It appears that IP made its transition charge proposal based upon the assumption that the Commission would improperly establish the delivery services credit that is provided to customers obtaining delivery services from alternate providers. (*See* IP Initial Brief at 23) This issue is addressed below in Section VIII of this Order. In establishing delivery services charges, the Act requires that:

> Charges for delivery services shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery services customers that use the facilities and services associated with such costs.

220 ILCS 5/16-108(c)

The Commission finds that the taking of unbundled delivery services by a customer from another provider should be properly reflected in the delivery service charges paid by the customer, not by any change to the transition charge. While rate changes for bundled service are subject to the restrictions contained in Section 16-111(a) of the Act, delivery service rates may be modified pursuant to Article IX. Any lost revenue experienced as a result of unbundling delivery services is properly addressed in an Article IX proceeding, not through an adjustment to the transition charge.

VIII. BASIS FOR CUSTOMER CREDIT OF UNBUNDLED SERVICES

The parties generally agree that a credit should be issued by the delivery service provider (utility) to the customers taking unbundled services from another provider. The one issue that remains is the basis for this credit. The issue is one of using "avoided costs" or decremental costs, on the one hand, or using fully-allocated or embedded costs, on the other. The larger the credit, the more likely the alternate provider will be able to compete with the utility for revenue cycle services because the combination of charges paid to the utility and the alternate provider will be less.

A. IIEC, Staff, Enron/NEV and the City Positions

IIEC argues that the issue of credits does not have to be decided in this case. IIEC goes on to argue that it is opposed to the adoption of an "avoided cost method." IIEC asserts that utilities have no entitlement to fixed cost recovery. IIEC states that utilities are entitled to an opportunity to earn revenues, but not guaranteed revenue protection from all forms of competition. IIEC asserts that the avoided cost scheme strikes at the heart of competition. (IIEC Brief at 15-17)

Staff takes the position that when a customer takes additional unbundled delivery services from a third party, the utility should credit the customer's account based on the utility's embedded cost of service. The Staff argues it is better to rely on fully-distributed costs rather than on measures of incremental costs to develop unbundling credits that are consistent with long-run efficiency in spurring entry. While Staff witness Kennedy advocated the use of an embedded cost credit, he indicated that theoretically the use of an avoided cost credit might produce economically efficient results. Dr. Kennedy states that it is difficult to define a suitable real-world version of incremental cost that retains the essence of the highly stylized version from which the efficiency benefits are deduced. He suggests that using embedded costs will be more conducive to the development of a competitive market for unbundled delivery services than some attempt to implement a suitable real-world version of incremental cost. (ICC Staff Ex. 2.0 at 4 and Tr. at 380-384)

Enron/NEV agree that credits should be derived from embedded cost in accordance with the methodology provided by Staff. (Enron/NEV Brief at 21)

The City argues that if the prices of delivery services components remain bundled and customers are allowed to purchase these services from other providers, the Commission should resist the utilities' efforts to squelch the competition for billing and metering. The City further argues that the bill credits should be based on utilities' average embedded costs, which would be, in the City's opinion, more consistent with customer choice and promoting competition. (City Brief at 14)

B. The Utilities' Position

ComEd asserts that the basis for the customer credit should not be decided in this docket, but rather should be deferred to another proceeding under Section 16-108 or Section 16-109 where the justness and reasonableness of rates is required to be considered. ComEd states that the determination of the basis of the credit is beyond the scope of the three questions posed in the Commission's initiating order in this docket. (ComEd Brief at 19)

ComEd nevertheless argues that the appropriate billing credit should be based on the utility's avoided costs. ComEd further argues that using a measure which is based on incremental cost provides an appropriate price signal that does not induce inefficient entry into the market for unbundled delivery services. Additionally, ComEd asserts that using an embedded cost approach would result in subsidization of new competitors by regulated ratepayers, losses of utility revenue, and inefficient entry into the market. (ComEd Brief at 20)

IP argues that the credit must be based on the utility's avoided decremental costs so that the utility's lost revenues match its saved costs. IP further argues that to do otherwise would violate Section 16-108. (IP Brief at 23) IP asserts that using avoided decremental costs will lead to the development of efficient competition. IP states that

efficient competition is a forward-looking concept and can only be achieved if the supplier with the lowest incremental cost gets the business. IP indicates that if the credit is based on the utility's embedded cost and that cost is higher than its avoided cost, then the utility is put at a competitive disadvantage and inefficient competition will develop. (*Id*. at 24)

IP states that alternative providers and consumer intervenors incorrectly presume that competitors have not invested in the infrastructure necessary to provide revenue cycle services and would thus incur large costs to enter the market, which would be offset by a small avoided cost credit. IP argues that the incumbent utilities are not the only entities that have invested in infrastructure to provide revenue cycle services. IP asserts that Enron has invested a large amount of money in a multi-state billing system and that its incremental cost to provide billing service in Illinois may be low. IP also argues that competitors could obtain billing services from companies such as Visa or even other utilities in the state or throughout the country, and avoid the large infrastructure cost. (*Id*. at 26-27)

MidAmerican argues that it is appropriate that customers electing the single bill option receive a credit or a reduced rate on their delivery service bill if the delivery service provider is able to reduce its billing costs because of the customer's election. MidAmerican asserts that such a bill credit should reflect the lower costs of billing, but not the fully embedded costs.

Ameren and Mt. Carmel did not address the issue of credits and Alliant does not believe the record in this docket supports addressing this issue. Alliant requests that a new proceeding be initiated to further develop the issue of credits.

C. Commission's Conclusion

Despite the extensive evidence presented on this subject, the initiating order in this proceeding did not contemplate a decision regarding this issue. In addition, the Commission notes that the issue of the appropriate credit, if any, for unbundled delivery services will be an issue in the recently filed delivery services tariff proceedings. The issue will arise due to the requirement in Section 16-118(b) of the Act that electric utilities file a tariff that would allow alternative providers to issue single bills to retail customers for both the services provided by the electric utility and the alternative provider.

While the Commission will not reach a substantive conclusion regarding the credit issue in this proceeding, it appears that the basis for establishing any credit, whether decremental costs or embedded costs, should be the same for all utilities. Furthermore, it appears that the basis for establishing credits for all unbundled delivery services should be the same. That is, the basis for establishing the credit under the single billing option should be applied to all other unbundled delivery services.

IX. OTHER ISSUES

A. Utility Investments in New Meter Technology

Alliant recommends that the Commission require utilities to minimize (or forego) any additional investments in new meter technology which is not specifically required to meet their delivery services obligation. (Alliant Brief at 9) Alliant witness Nicolai testified that utilities may be making additional investments in meter technology based on the distribution system operation and maintenance requirements and not on the basis of customer supply needs. (Alliant Ex. 1 at 7-8)

The Commission notes that two utilities indicated that they plan to make additional investments in new meter technology which may not be required to meet their delivery services obligation. (Tr. at 635-636; Ameren Ex. 1.0 at 7) As discussed above, the utilities have asserted that additional time is necessary before metering services can be unbundled. The Commission finds that it would be inappropriate for electric utilities to use the time necessary to properly implement unbundling of metering services as an opportunity to thwart competition for those same services.

While the Commission will not prohibit electric utilities from making investments in metering technology, it does wish to discourage electric utilities from making investments that may inhibit competition in the metering services market. Therefore, the electric utilities are hereby advised that there is no assurance that any investment in metering technologies will be recovered from either bundled service or delivery service customers. The Commission will closely review all such investments to ensure the underlying assets are, in fact, necessary for the provision of utility services and that costs were not incurred for the purpose of undermining competition in the metering services market.

B. Declaration of Unbundled Delivery Services as Competitive

IP recommends that if the Commission decides to order the unbundling of metering and billing services, then it should also state its intention to immediately declare metering and billing “competitive” upon the filing of appropriate Section 16-113 petitions by the electric utilities. According to IP, under Section 16-103 of the Act, if the Commission unbundles metering and billing and allows customers to obtain these services from alternate providers, the electric utilities may be required to continue to offer these services on a tariffed, regulated, embedded cost basis until the services are declared “competitive” by the Commission under Section 16-113. IP states that even at that point, the electric utility could be required to continue to offer the services on a regulated, tariffed basis to customers who were taking the tariffed service on the date it was declared competitive. IP asserts that under these circumstances, unbundling of metering and billing will not result in “competition,” but in a protected price ceiling against which third-party providers can set their prices. (IP Brief at 27-28)

IP states that if metering and billing are to be opened to competition, then the electric utility should be allowed to compete as well. Therefore, IP asserts, that in any Commission order directing that unbundled metering and billing be implemented, the Commission should also state its clear intention to immediately declare these services "competitive" upon receipt of petitions from the electric utilities. IP states that the Commission should state that it will grant such petitions without taking the full 120 days allowed it by Section 16-113 of the Act. IP claims that if the arguments for unbundling and third-party provision of these services are accepted, then the Commission can conclude that there are already alternate providers of these services ready to provide the services to customers at prices comparable to the electric utilities' tariffed prices and to take business away from the electric utilities. IP asserts that the Commission should already have the information it needs to declare these services "competitive." (*Id.*)

The Act specifies the process by which a tariffed service may be declared competitive:

> An electric utility may, by petition, request the Commission to declare a tariffed service provided by the electric utility to be a competitive service. The electric utility shall give notice of its petition to the public in the same manner that public notice is provided for proposed general increases in rates for tariffed services, in accordance with rules and regulations prescribed by the Commission. The Commission shall hold a hearing on the petition if a hearing is deemed necessary by the Commission. The Commission shall declare the service to be a competitive service for some identifiable customer segment or group of customers, or some clearly defined geographical area within the electric utility's service area, if the service or a reasonably equivalent substitute service is reasonably available to the customer segment or group or in the defined geographical area at a comparable price from one or more providers other than the electric utility or an affiliate of the electric utility, and the electric utility has lost or there is a reasonable likelihood that the electric utility will lose business for the service to the other provider or providers; provided, that the Commission may not declare the provision of electric power and energy to be competitive pursuant to this subsection with respect to (i) any retail customer or group of retail customers that is not eligible pursuant to Section 16-104 to take delivery services provided by the electric utility and (ii) any residential and small commercial retail customers prior to the last date on which such customers are required to pay transition charges. In determining whether to grant or deny a petition to declare the provision of electric power and energy competitive, the Commission shall consider, in applying the above criteria, whether there is adequate transmission capacity into the service area of the petitioning electric utility to make electric power and energy reasonably available to the customer segment or group or in the defined geographical area from one or more providers other than the electric utility or an affiliate of the electric utility, in accordance with this subsection. The Commission shall make its

> determination and issue its final order declaring or refusing to declare the service to be a competitive service within 120 days following the date that the petition is filed, or otherwise the petition shall be deemed to be granted; provided, that if the petition is deemed to be granted by operation of law, the Commission shall not thereby be precluded from finding and ordering, in a subsequent proceeding initiated by the Commission, and after notice and hearing, that the service is not competitive based on the criteria set forth in this subsection.

220 ILCS 5/113(a)

On its face, IP's proposal appears inconsistent with the statutory requirements. First, a tariffed service may only be declared competitive upon application of a utility. Second, the statute specifies that a tariffed service may be declared competitive for "some identifiable customer segment or group of customers, or some clearly defined geographical area . . . " not necessarily for the entire State as IP implies. Third, there are specific statutory criteria that must me met before a tariffed service may be declared competitive. IP failed to demonstrate (a) that billing and metering service or a reasonably equivalent substitute service is reasonably available, (b) as discussed above, the appropriate customer segment or group or the defined geographical area in which such services may be available, (c) that these services are available at a comparable price from one or more providers other than the electric utility or an affiliate of the electric utility, and (d) that the electric utility has lost or there is a reasonable likelihood that the electric utility will lose business for the service to the other provider or providers.

The Commission observes that the record of this proceeding contains no information regarding the price which alternative providers may charge for billing and metering services. In fact, the record contains no information regarding the price which electric utilities may charge for billing and metering services. IP's proposal is rejected.

X. COMMISSION'S FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record in this proceeding and being fully advised in the premises, is of the opinion and finds that:

(1) each of the Respondents is an Illinois corporation engaged in the business of furnishing electric service in the State of Illinois and is a public utility within the meaning of Section 3-105 of the Public Utilities Act;

(2) the Commission has jurisdiction over each of the Respondent and the subject matter herein;

(3) the recitals of fact and law heretofore set forth in the prefatory portions of this Order are supported by the evidence and are hereby adopted as findings of fact and conclusions of law herein;

(4) metering and billing should be unbundled;

(5) implementation of unbundled metering and billing should comply with the process specified in Section V of this Order;

(6) exceptions for very small utilities from the metering and billing unbundling requirement should be decided on a case-by-case basis;

(7) any revenue loss by an electric utility attributable to the unbundling of delivery services should be considered in a proceeding to establish delivery service charges pursuant to Section 16-108 or Article IX of the Act, not through an adjustment to the transition charge.

IT IS THEREFORE ORDERED that metering and billing shall be unbundled.

IT IS FURTHER ORDERED that the implementation of unbundled metering and billing shall comply with the process identified in Section V of this Order.

IT IS FURTHER ORDERED that exceptions for very small utilities from the metering and billing unbundling requirement shall be decided on a case-by-case basis.

IT IS FURTHER ORDERED that any revenue loss by an electric utility attributable to the unbundling of delivery services shall be considered in a proceeding to establish delivery service charges pursuant to Section 16-108 or Article IX of the Act, not through an adjustment to the transition charge.

IT IS FURTHER ORDERED that this Order is not final and is not subject to the Administrative Review Law.

By order of the Commission this 12th day of April, 1999.

Chairman